The principal case follows the general rule laid down by previous cases in Michigan, which is in accord with one line of authorities holding that when the evidence is conflicting as to whether a confession was voluntarily obtained, the question should be left to the jury under instructions to disregard the confession if upon all the evidence they believe it was involuntary. *People* v. *Biossat,* 206 Mich. 334; *People* v. *Lipsczinska,* 212 Mich. 484; *Commonwealth* v. *Piper,* 120 Mass. 185; *Williams* v. *State* (Texas, 1920), 225 S. W. 177; *Bonner* v. *State* (Ga., 1921), 109 S. E. 291. Directly opposed to that line of cases is the older and possibly more generally accepted doctrine that whether a confession was freely and voluntarily made is a matter of admissibility of evidence to be determined by the court, which doctrine is more in accord with the elementary principles defining the functions of judge and jury. WIGMORE ON EVIDENCE, § 861. See *Machen* v. *State* (Ala., 1920), 85 So. 857; *Hauk* v. *State,* 148 Ind. 238; *Ellis* v. *State,* 65 Miss. 44; *Biscoe* v. *State,* 67 Md. 6; *Stiner* v. *State,* 78 Fla. 647; *People* v. *Columbus* (Cal., 1920), 194 Pac. 288. Variations of the two rules are not infrequent as in *Commonwealth* v. *Sherman,* 234 Mass. 7, where it was held that the judge should first apply the rules of law to the confession in question, and after admitted by him, the jury should apply them again with power to reject the confession if not voluntary. To the same effect see *Wilson* v. *U. S.,* 162 U. S. 613. In *State* v. *Storms,* 113 Ia. 385, it was held that when the court is in doubt as to the voluntary character of the confession, it should be left to the jury. In *Burton* v. *State,* 107 Ala. 108, the court held that the jury should consider whether the confession was voluntary in passing on its weight, but once it was admitted by the court, the jury could not wholly neglect it, it not being their duty to determine the question of admissibility. In such a case the jury will consider the same facts as the court did, but with the purpose of determining credit rather than admissibility. In *State* v. *McDaniels* (N. M., 1921), 196 Pac. 177, the court held that the admission or rejection of a confession in the first instance is for the court, but if after its admission a conflict of evidence arises as to its voluntary character, the question of whether voluntary or not is for the jury. If the facts surrounding the confession are uncontroverted, the court should rule on its admissibility as a question of law, and under either of the two established rules the decision in the trial court is generally final, subject to reversal only if there is a clear error in the result.

JURISDICTION—TRESPASS TO REAL PROPERTY—LOCAL ACTION.—The plaintiff brought an action of trespass in Idaho for injuries caused to his land in Washington by acts of the defendant which occurred in the latter state. *Held,* (Rice, J. dissenting) an action of trespass is a local action and can be brought only in the state where the land lies. *Taylor* v. *Sommers Bros. Match Co.,* (Idaho, 1922) 204 Pac. 472.

The common law distinguished clearly between so-called transitory and local actions,—requiring the latter to be brought in the venue where the cause of action arose. As to the origin and development of the rule, see

article, 27 W. VA. L. QUART. 301. In *Mostyn* v. *Fabrigas,* (1774), 1 Cowp. 161, Lord Mansfield pointed out the lack of substantial difference between local and transitory actions where "the whole that is prayed is a reparation in damages, or satisfaction to be made by process against the person or his effects, within the jurisdiction of the Court." He also referred to cases at *nisi prius* involving injuries to foreign lands in which he, as judge, overruled the objection that the action being local, the English courts had no jurisdiction, his ruling being based "upon this principle, namely, that the reparation here was personal, and for damages, and that otherwise there would be a failure of justice". The English courts, however, declined to follow Lord Mansfield's suggestion. In *Doulson* v. *Matthews,* (1792), 4 T. R. 503, where trespass was brought in England for injuries to land in Canada, the court rendered the following opinion: "It is now too late for us to enquire whether it were wise or politic to make a distinction between transitory and local actions: it is sufficient for the courts that the law has settled the distinction, and that an action *quare clausum fregit* is local. We may try actions here which are in their nature transitory, though arising out of a transaction abroad, but not such as are in their nature local." Though the distinction between local and transitory actions was abolished in England by the Court Rules adopted in 1873, 36 & 37 Victoria, 1873, c. 66, Rules of Procedure, 28, it was subsequently held that trespass could not be brought in England for injuries to land in a foreign jurisdiction. *British South Africa Co.* v. *Companhia de Mozambique* [1893], A. C. 602. But see the opinion of the court which was reversed: *Companhia de Mozambique* v. *British South Africa Co.,* [1892] 2 Q. B. 406, 415. The language and logic of the opinion in *Doulson* v. *Matthews, supra,* rendered in 1792, expresses quite accurately the view supported by the great majority of American courts. The leading American case admits that the rule is technical. (Marshall, J.) *Livingston* v. *Jefferson,* 1 Brock 203, Fed. Cas. No. 8411. Though the common law rule has been severely criticised even by the courts adopting it, only one court has absolutely rejected it. In *Little* v. *Chicago, etc., Ry. Co.,* 65 Minn. 48, the court, quoting Lord Mansfield's opinion with approval, refuses to support the common law rule because "it is purely technical, wrong in principle, and in practice often results in a total denial of justice." In some states it has been abolished by statute. Consolidated Laws of New York, Real Property Law, § 536. The courts have grasped at straws to remove cases from the rule. See cases referred to in *Little* v. *Chicago, etc., Ry. Co., supra,* and the exceptions to the rule noted in the opinion in the principal case. In *Huntington* v. *Attrill,* 146 U. S. 657, the Supreme Court of the United States suggested that there was no inherent reason for viewing trespass to real property as local, and that the rule was based rather upon convention and custom than upon a fundamental want of jurisdictional power. See also *Peyton* v. *Desmond,* 129 Fed. 1.

LANDLORD AND TENANT—CREATION OF NEW TENANCY UPON WAIVER OF NOTICE TO QUIT.—A controversy arising between the defendants and sublessees over an increase in rent, defendants gave notice to quit, which notice